

**"LIBERTY, THE UNION, AND THE CONSTITUTION."**

CITY OF WASHINGTON, SUNDAY MORNING, AUGUST 18, 1850.

The difference in the social organization—the domestic structure—between the northern and southern States is fundamental. This difference, being fundamental, enters necessarily into the internal political structure of these States and marks, as between the sections, in their relation to each other, a distinct line of division in political interests. It is not, however, the difference in the social organization in government to the degree that all legislation which can affect prejudicially the interest that divides them is forbore, or that a power exists in the interest endangered by such legislation to resist the government. The constitution provides no division of the power of the government at its own will, and by an independent power, check, aggression, and defend itself from assault. For a reason which I shall hereafter show, the occasion for such a check not only never occurred, but no union was formed, it was not provided for. Upon the foundation of the Union, no distinct interests it is idle to rely. The omission in the constitution can only be supplied by a policy in the government which may preserve such balance in the relative power of the two interests as will enable each to protect itself.

The emigration of foreigners to the shores of California has continued throughout the winter, and the opening spring finds the influx at this port none the less. They come from all quarters, from the coast of Europe, from the South Pacific, from China, and from the Hawaiian Islands, (though in fewer numbers), and are the same heterogeneous mass of gold diggers, composed of persons of every race and color, and of every age and sex.

I have been thus particular to show what is stated of the character of the foreign population in California, that I may find full warrant for the opinion that these people ought not to be even counted in the number of those who were entitled to be regarded as composing the community of the State. It is true, that this class, taken in the whole number of inhabitants in California, have constituted the legitimate material for a political organization—namely, native Californians and Americans—amounted on the 1st of August to only 39,944 persons. Now, was it right that this handful of persons, 15,000 of whom were not even recently admitted to the rights of citizenship, and were unequalled with our language, should be allowed to take into their hands the high trust of moulding the institutions and giving direction to the destinies of the Pacific country, so intimately interwoven as they were with the destinies of the whole of the American republic? No man can estimate the importance of that part of our country in a commercial and financial aspect. As an agricultural country, (I include Oregon,) I am satisfied from the letters I have, and other sources of information, it has been greatly underdeveloped, a great country, and one which has regard to its resources, its capacities; and never was there a higher duty devolving upon this government than that of superintending and directing its early career—a career which in its progress may deeply influence, for weal or woe, the condition not only of this Union, but through this Union, the globe.

The precipitancy with which this State organization was entered upon involved also a sectional wrong. Not only was the South deterred from migration by the Wilcox and the agriculturalists, but the opportunity for the western and southern colonists to reach the country for the government was formed. The gold news reached the States in the fall of 1848. By the effect of one of the early compromises, the North was enjoying a monopoly of the navigation interest. She was able to throw her weight against the South, and the western and southern emigrants were obliged to await the return of spring for their overland march, and could only reach there in the autumn. The northern colonists, strengthened by a northern regiment, which, under the leadership of a northern general, was sent to the Pacific, and the public were invited to an organization in advance of the arrival of the overland column. It was well known in California that twenty thousand Americans and more, from the western and southern States, were on the way. A member of the convention advised, to the fact, and the fact was true, that the great influx of foreigners, and

In the first place, the organization of a State government was premature. It excluded a large proportion of the population, and thereby destroyed the construction of the fundamental law by which themselves and their posterity were to be governed, and by which the institutions and destiny of the State were to be permanently moulded. The first important fact bearing upon this point is the insufficiency of the actual population of the State at the time of the adoption of the constitution. I use, for the purpose of an estimate, the information furnished to Congress by the Census of 1850, because, although more favorable than any other I have seen, it is entitled to be regarded as the most accurate and reliable we can obtain under the circumstances. In 1850, 1849, consisted of 13,000 native Californians, 17,994 Americans, and 12,556 foreigners—making an aggregate of 43,550 persons, or not much beyond one-half the number required for a representative in Congress under the Constitution. If we add to the Californians and Americans and foreigners together, there were then 25,536, and of Americans 17,994. A large majority, then, of the immigrants on that day were total strangers to the language, habits, laws, and republican institutions of the United States, and there were less than 18,000 who were, by the very nature of things, bound to be attached to the government to be immediately associated with this Union. There is another remarkable peculiarity in the elements composing the population, which the estimate I am considering brings to view. Among 9,500 emigrants, Americans and foreign, who arrived in California during the years 1847, 1848, and 1849, there were there were only 258 females, or less than three per cent. Presuming the same proportion to hold good, as I doubt not is the case, with regard to the American and foreign arrivals prior to that year, then among 30,550 of the immigrant population, the number of females could not have exceeded 763, or about two and a half per cent. There is no organization, and leaves us without assurance of the permanency of the population. There can be no permanent inhabitation, in a political sense, until that thorough social and domestic organization has taken place which secures the population, and gives to a local society with the resources of the country, a solid and abiding basis.

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The General Registry proclamation, and the order and peace of the country well maintained. In making this statement, I rely upon the general knowledge, in this country, that our Government is a Government of the people, the organization, and the goodness, and the good-will of the population under its influence. As late as October 31, 1849, he says in a despatch to the Adjutant General, that "the whole country remains remarkably quiet, and the civil authorities encounter no serious difficulties in enforcing the laws."

The wrong, then, which the overland emigrants suffered in being excluded from a voice in the convention was wanton, and without warrant of necessity.

It is not to be supposed that the Government connected with the formation of the constitution were precipitate and loose. Very few of the population, according to the information I have received from that country, participated

in them. Very few votes were cast. One of the leading members in that convention, who represented himself, I think, to have received a higher number of votes than most of his colleagues, from an important district, had altogether 96 votes, and this was probably a fair sample of the election in most of the districts. The convention added largely to its number by an edict of its own. Under the proclamation of General Riley, 37 delegates were elected. The convention increased its number to 69 after considering it was in all respects too heavily constructed.

But, if all other objection were wanting, the recency of the connexion of the inhabitants with the country, and the circumstances under which they have gone there,

mark the immaturity of the proceeding. How many have gone there with the intention to remain permanently? Of all those of my acquaintance there, I hardly know one who is expected to return with his guns to live on this side of the water. The vast majority of the men are the same from other States, to a great extent. How many had been there long enough, when the State was formed, to have become fixed in their location? None, or sympathies? I cannot better illustrate my view of the recency of the settlement of the population there than by mentioning one of the men who has been here now here to take his seat as a senator—and I refer to him in entire friendship. No better choice could have been made; for we are all familiar with his remarkable efficiency, energy, and talents. But what is the history of his connection with California? He came here in June, 1849, made a series of speeches at a political meeting on the same night, I believe, was elected a delegate to the convention on last August; was appointed a senator

Mr. LAFETTE. The chairman of the committee gives us a reason for desiring this action on the part of the House, that there be no a *la* chair of decision without advice; that there is a division of opinion among them as to whether this constitution should go into effect when the people choose, or whether they should wait until Congress chooses. The question of the sovereignty of the people is raised by this report of the committee. It is precisely on that point

— Now, sir, that it is not only absolutely essential that we should give them these instructions, but that we should put it in the proper ground, and let the general public know that we are doing so, and that we are doing so by other general or military commandant or corporal, know that the representatives of the people in this convention, and that they are to be put in the proper ground, and go into effect immediately on its adoption, but that they consider they have the right to say so—to fix themselves the right to say so, and to fix themselves the right to say so in virtue of the sovereignty that resides in them.

Mr. McCarver. I understand this question, we go to the question of the sovereignty of the people, and the independent sovereignty. We only ask to exercise the functions of a State. If the government refuse to admit as a State, we will not be a State, and we will not exercise the sovereignty of an independent State. We do not now claim the right to collect the revenue of the Union, nor to collect the revenue of the Union, nor to collect the revenue of the Union, which have been ceded by the thirteen States to the general government.

In the Congress of the United States prepared to wane, such opinions, by confirming a government put into operation in accordance with them on the territory of the United States:

The passages I have read might be overlooked as the foretelling of a future spirit of freedom in spirit, but I believe the main to the government, but dangerous when unchecked by a regard for the supremacy of law, and the legitimate restraints of government. If we had no more territory remaining open to the application of these feelings, it would be of no consequence to take note of them, or to be mixed with the feelings of the sentiments of devotion to the confederacy, natural to the American heart. But we have Utah, with a population orderly and respectable, yet with institutions tending to separate it from association with the mass of our people. We have Oregon, already assuming to follow the example of California, with a population utterly unqualified for admission. We have Oregon—the immense and fertile ter-

Considering that the people there are comparatively strangers to each other, and that society is not yet compacted, can the State sustain itself creditably through the efforts of a few individuals? Can it be expected to have backed for years in her prosperity and progress? At all events, it is not likely that the young community will be forced to involve herself in liabilities that may cripple her energies for a long time to come? It is right to afford them an opportunity of reconsideration. Let the great mass of people who will be there after the overland route is opened, be permitted to express their views on their choice. If they pronounce in favor of assuming a State government, I am willing, under all the circumstances, to let the part north of 36 deg. 30 min., where the emigrants mostly are, enter upon the experiment; and upon their presenting a constitution, acceptable to Congress, I should not be disposed to refuse admission to the Union. But if they are in favor of territorial interests, are not in a satisfactory condition of mind,

While, on the one hand, the increase of power in the Senate is not necessary to the North, it is vital to the South. In the first place, the North is in undisputed and uncontested possession of a majority of Representatives. Hence, it is the South, and not the North, that has no such element of power in the government. In the next place, the South has an interest much more sensitive than any which distinguishes the northern section, and a legislative war upon which it would be attended with more serious consequences to the South than could follow from any assault to which the North is open. A derivative power, therefore, is more essential to us than to them. But it may be said that because the political balance in the Senate is lost, all is not lost. The Executive is competent, by the veto of the one and the judicial intervention of the other, to prevent unconstitutional legislation to our prejudice. I reply to this, that no effectual security can be found in the executive or judicial departments, after the legislative power has been reduced to a mere subordinate position. To the same extent to which the North it is in the ascendant in the two branches of Congress will it be in the ascendant in the electoral colleges. With the power to make a President in defiance of southern opposition, the North will reduce to a mere subordinate position the executive department. With a northern Executive to nominate judges, and a northern Senate to confirm, how long would it be before the supreme bench might be filled with judges imbued with northern sentiments and bias, and ready to follow the lead of the Executive? That the executive and judicial departments may be subordinated to the will of a dominant section, and made to minister to its purposes, does not involve an imputation of corruption in the departments. Both departments are bound to fill up their ranks with every honest nomination. But do we not all know that, upon every possible issue of constitutional construction, there are different opinions among the ablest and best men of either section? Have we not seen a judge of the Supreme Court, who had been a judge of the Supreme Court of the northern public his opinion that the Wilmot Proviso was constitutional is there not now an Executive who holds that opinion? Are we sure that in the Executive department, even now, there are none who believe that the Executive has no power to interfere with the slave trade, and to abolish slavery in the forts and arsenals, and in the District of Columbia? Can it be doubted that statesmen will be found to fill the executive chair, and eminent jurists to occupy the judicial bench, who will not only follow the lead of the Executive, but sanction which the North from time to time may hold, and under sanction of which they may seek to reach our do-

Up to this time an equi-poise in the number of slaveholding and non-slaveholding States has as nearly as practicable, and to all useful degree, been preserved. The admission of California will turn the balance in favor of the non-slaveholding States, which, for convenience of discussion, I will hereafter call the free States. The chances which render it probable that no further of this nature accessions to the number of slaveholding or southern States can be anticipated. We have, then, reached the point in our political history when we must decide for a permanent ascendancy and control in the Federal Government by the free States, or by the slave States, without the danger of disturbing the beneficial and safe action of the system. This is the very grave issue that presents itself now. I will not shrink from marching up to it. No good citizen, from the North or the South, who is a member of the American Union, can avoid it, in which the subject impresses my mind. I consider it resolves itself into an issue of union—must it by immediate effect, but in its unavoidable consequences. In this view it becomes an issue for the country—an issue involving the social and political destinies of the people, and the future of the American Union under this government. The people live in our path. It should be met fully and firmly, with a disposition on both sides to make all just concessions for the sake of union which are consistent with the safety and honor of our respective sections. We owe this to the spirit of the age, to the feelings of the people, and to the fact which brought the States into union—which will exist, though in a diminished degree—which cannot long exist, if the present causes of irritation are not removed—which may forever exist, if justice and kindness shall mark our intercourse as confederates.

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But does our experience of the past justify us in relying upon a stern faith in the North? The South has made this leading complaint of compromise with the South in the course of the history of their Union. The first was in the convention. We bought for a price the obligation on the part of the North to restore our fugitives from labor. Have they kept faith in that? So far from it, that they have completely broken their engagement, public opinion is arrayed openly against the duty. Legislatures pass laws obstructing the operation of the constitution, and societies are permitted to exist in which they have helped to violate the stipulation. Sir, a notable admission was that which one of the greatest statesmen of the North (Mr. Webster) made to admit the record of the North, in a late speech, upon a tablet of brass, as a lasting proof against northern faith. Did you not all hear him admit that not an unusual number of citizens in Massachusetts had attempted in the case of the fugitive slave, to succeed in the attempt in the case of a free man? He had not, and an admission of a false claim for one?

The next great complaint of compromise was the Missouri Compromise. The South yielded there, for the establishment of a line of division to the Pacific.